IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY THIRD DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No. 3273 of 2005

Between:

Shaik Dastagiri , E-426758, S/o. SK. Fakruddin,
R/o. Dhone, Kurnool District.

..... PETITIONER

AND

The APSRTC rep by its Regional Manager, Kurnool Region, at Kurnool, Kurnool District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus, or any other appropriate writ, order or direction, declaring the action of the respondent herein in deleting the name of the petitioner from the selection list on the allegation of not reporting for duty without holding any departmental enquiry vide proc. No. E1/255(38)/2001-RM.Q" Dt. 30-10-2001 as illegal, unjust and arbitrary, contrary to the regulations of the Corporation and as such liable to be set aside.

Counsel for the Petitioner:MR.S.M.SUBHAN

Counsel for the Respondent: MR.P.VINAYAKA SWAMY

The Court at the admission stage made the following O R D E R:

The petitioner contends that he was appointed as a driver in the respondent-Corporation in pursuance of the notification in the year 1998. After successful completion of training, he was allotted duties vide proceedings dated 04.06.1999. During the period of strike of the regular employees from 15.10.2001 to 07.11.2001, the petitioner was directed to report to duty, but due to lack of information he did not report to duty. Subsequently, when he reported to duty, he was informed that his name was deleted from the selection list without issuing charge sheet or show cause notice. The respondent issued notice on 30.10.2001 directing the petitioner to repot to duty on or before 05.11.2001. Since the petitioner failed to report to duty to engage him as a daily wage driver, his name was deleted from the selection list. The petitioner, therefore, approached this Court through this writ petition, seeking a direction to the respondents to restore his name in the list of selected candidates and reinstate him into service.

It is an undisputed fact that the petitioner was selected on the basis of regular selection. His services were being utilized as a casual driver as and when required. Under the similar circumstances, a Division Bench of this Court gave a judgment on 29.08.2003 in Writ Appeal No.1259 of 2003 upholding the order of the learned Single Judge who held that it is not permissible for the Corporation to remove the name of the workman from the selected list, when the selection was made through a regularly constituted board. In the present case also, if the Corporation comes to a conclusion that non reporting to duty, amounts to dereliction of duty, the Corporation

is at liberty to initiate action against the petitioner and after a detailed inquiry, may pass appropriate orders according to Rules, but, without giving any opportunity, removing the name of the petitioner from the list of selected candidates is against the principles of natural justice. The action of the respondents in removing the name of the petitioner from the list of selected candidates is arbitrary. Therefore, such action is liable to be corrected by directing the respondents to restore the name of the petitioner to the selection list.

In the light of the above circumstances, the action of the respondents in deleting the name of the petitioner from the list of selected candidates is quashed. The respondents are directed to restore the name of the petitioner into the list of selected candidates and continue to engage him as he used to be engaged previously till an action, if any, taken by the respondents for the absence of the petitioner in response to the notice and the punishment, if any, going to be imposed.

With the above observation, the writ petition is allowed. No order as to costs.

23.02.2005

usd

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Regional Manager, APSRTC Kurnool Region, at Kurnool,

Kurnool District.

2 2 CD copies

3 1 CC to MR.SUBHAN